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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.REV.P. 749/2006

MANISH MEHTA ..... Petitioner
Through Mr. N. Hariharan, Advocate

versus

MOHAL LAL ..... Respondent
Through

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

O R D E R

% 13.07.2007

1. In this petition, an order declining to entertain an application under Section 197 Cr.P.C. read with Section 140, Delhi Police Act has been challenged.

2. Briefly the facts are that the respondent/complainant alleged that on 03.05.99 two constables went to his house to execute a non-bailable warrant against his son. It was alleged that upon questioning, the constables did not show the warrants. Again on 08.05.99, the same policemen went to complainant's house. The complainant alleged that later they returned with SI Srinivas. According to the allegations, the complainant and his wife were taken to the Police Post at Madipur, abused and also subjected to physical harassment. The complainant alleged that certain valuable articles were taken away from them. The trial Court summoned the accused including the present petitioner SI Mahesh Mehta.

3. During the course of proceedings, the accused applied seeking discharge on the ground of lack of sanction to prosecute them. That application was

rejected by the impugned order.

4. It is contended by Mr. Hariharan, learned counsel that the safeguard enacted under Section 197 Cr.P.C. is not an idle formality. The Court, taking cognizance is required to carefully examine whether the acts complained of are integrally connected with the discharge of duties of the public official. If so, the absence of sanction would vitiate further proceedings. Counsel contended that the trial Court should not have proceeded without satisfying itself as to the nature of the order made in the proceedings drawn under Section 107/151 Cr.P.C. That proceeding, it was contended, had been filed on the basis of a DD entry made by the police themselves when the complainant parties sought to resist execution of the non-bailable warrants.

5. Learned counsel for the respondent/complainant urged that this petition should not be entertained. He submitted that the impugned order is legal and proper. The complainants were subjected to needless harassment and agony and the trial Court correctly proceeded to reject their request for dropping the proceedings.

6. On a careful consideration of the materials and the submissions made by the parties, it appears that the petitioners had made a DD entry which led to proceedings under Sections 107/151 Cr.P.C. That proceeding and the order made by the Executive Magistrate would have some bearing on the question whether the petitioner and other police officers acted within the scope of their authority.

7. In these circumstances, I am of the opinion that the revision has to succeed. Accordingly the petition is allowed. The matter is remitted to the trial Court for fresh consideration of the application filed by the petitioner under

Section 197 Cr.P.C/140, Delhi Police Act. The trial Court, while deciding that application, shall consider the record of proceedings and the order made in the Section 107/151 Cr.P.C. case initiated by the petitioner/accused.

The petition is allowed in the above terms.

Order dasti under the signatures of the Court Master.

S. RAVINDRA BHAT,J

JULY 13, 2007
as